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The allowance of Claims 9-16 is gratefully acknowledged. Claim 24 has been rejected for allegedly lacking support for the term "non-lens", and Claim 25 has been rejected for allegedly being indefinite in light of the "non-lens" recitation in Claim 24. These rejections have been cured in the present amendment.

Of the remaining Claims, Claims 1, 2, 4, 5, 8, 20, and 22-27 have been rejected under 35 U.S.C. §102 as being anticipated by Park, USPN 5,477,270, and Claims 1, 2, 6, 20, and 24-26 have been rejected under 35 U.S.C. §102 as being anticipated by Matsuo, USPN 6,600,824. Claims 6 and 7 have been rejected as being anticipated by both Shim et al., USPP 2002/0068537, and by Hisaki, JP 05-183621. Claim 28 has been rejected under 35 U.S.C. §103 as being obvious over Park in view of Ogura, USPN 4,807,051, and Claim 29 has been rejected as being obvious over Park in view of Lemelson et al., USPN 6,421,064.

Turning to Claim 1, Park obtains audio gain from a lens position which is independent of Claim 1's orientation of a person's head relative to the microphone, and a head location relative to a direction of sensitivity of a microphone. Note that Applicant is not claiming merely a person's head, which as the examiner correctly pointed out is inherent in people, but rather establishing an audio gain based on a person's head orientation or based on a person's position relative a direction of sensitivity of a microphone. Park nowhere considers orientation as an audio gain metric and the rejection, much less Park, do not even mention the concept of a person's position *relative a direction of sensitivity of a microphone*. Likewise, referring to the relied-upon portions of Matsuo in the rejection, Matsuo can adjust audio gain but based only on distance as indicated by the size of an imaged face, not based on orientation. A distant face looking directly at the camera presents the same area as a closer face looking partially askance at the camera and, hence,

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would result in Matsuo establishing the same audio gain regardless of orientation. The rejections of Claim 1 (and for the same reasons, the rejections of Claim 24) are overcome.

Neither Shim et al. nor Hisaki nor Matsuo teach either an orientation sensing system or a motion sensing system as required by Claim 6. More particularly, the proximity sensors of Shim et al. are neither orientation sensors nor motion sensors, and as discussed above Matsuo likewise provides neither type of sensor. Hisaki uses an infrared sensor per the examiner, which again is not an orientation sensor or, in the way it is used by Hisaki, a motion sensor. Accordingly, Claim 6 is patentable.

None of the references applied against Claim 7 use lasers. The examiner points to the infrared sensor of Hisaki, but that is not the same thing as a laser. Just because some lasers operate in the IR spectrum does not mean that IR sensors are lasers. Likewise, the various sensor types of Shim et al. somewhat eccentrically pointed to in the rejection (IR sensors, photoelectric sensors, sound sensors, capacitive sensors, and temperature sensors) are not lasers.

Amended Claim 20 now recites deriving the audio gain from a video stream, something not taught or suggested in any of the relied-upon references. Claim 20 is now patentable.

Claims 17-19 have not been elected but they remain pending. It is suggested that based on the art of record they should be allowed.

The rejection swearing behind Shim et al. (which also establishes a date of conception prior to newly relied-upon Matsuo) in fact presents evidence in the form of testimony based on first hand knowledge of diligence, contrary to the allegation in the Office Action. This is no mere "pleading" but testimony under penalty of perjury alleging specific facts about the prosecution process that was followed.

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